

MINUTES

ALCOHOL AND TOBACCO COMMISSION

NOVEMBER 3, 2010

CALL TO ORDER/NOTING OF QUORUM

Chairman Snow called the meeting to order and noted the quorum and the attendance. Present were Vice Chairman Johnson, Commissioner Guthrie and Commissioner Sturtz. Superintendent Huskey, Major Poindexter and Executive Secretary Dunsmore were also in attendance.

Marc Carmichael, Debbie Rolfson, Matt Brase, Rebecca Howard, Annie Maclean, Jeff McKean, Jim Purucker, Trevor Vance, Nicole Upano and John Barnett were present as observers.

DISPOSITION OF MINUTES

Commissioner Sturtz moved to approve the minutes that were submitted for the October 19, 2010 meeting. Commissioner Guthrie seconded. The motion was unanimously approved.

HEARING JUDGE'S RECOMMENDATIONS

PARTIES' AGREED DISPOSITIONS – Vice Chairman Johnson moved to approve the parties' agreed dispositions that were submitted for the November 3, 2010 meeting. Commissioner Guthrie seconded. The motion was unanimously approved.

CONSIDERATION OF APPLICATIONS

Commissioner Sturtz moved to approve and incorporate by reference these lists of permits for renewal, which have been recommended by local boards and reviewed by our staff with the authority of the Commission. Vice Chairman Johnson seconded. The motion was unanimously approved.

Commissioner Sturtz moved to approve and incorporate by reference these lists of permit applications for a new permit, which includes the tabled applications, or applications for changes in location or ownership or both of existing permits, which have been recommended by local boards and reviewed by at least two Commissioners. Vice Chairman Johnson seconded. The motion was unanimously approved.

Commissioner Sturtz moved to approve and incorporate by reference these lists of permit applications for catering. Vice Chairman Johnson seconded. The motion was unanimously approved.

Commissioner Sturtz moved to approve and incorporate by reference these lists of permits to be placed in escrow for not more than five years, which have been reviewed

and recommended by a Commissioner as appropriate for escrow. Vice Chairman Johnson seconded. The motion was unanimously approved.

Three hundred twenty-three (323) permits approved for renewal, fifty-nine (59) new and/or transfer permits approved, twelve (12) permits approved for catering, four (4) permits approved for first year escrow, one (1) permit approved for second year escrow, one (1) permit approved for fourth year escrow and one (1) permit approved for fifth year escrow.

RENEWAL LETTERS AND WAIVER OF FEES

Vice Chairman Johnson moved to approve the renewal letters and the waiver of fees for letters of extension for the preceding weeks. Commissioner Sturtz seconded. The motion was unanimously approved.

APPLICATIONS FOR DISCUSSION

DL09-27353 MARACOR, INC. – Commissioner Guthrie noted this is a new type 115 application with the local board voting four (4) to zero (0) to approve.

Commissioner Guthrie moved to uphold the local board's recommendation and approve the new permit. Commissioner Sturtz seconded. The motion was unanimously approved.

DL64-27327 FAMILY EXPRESS CORPORATION – Commissioner Guthrie noted this is a new type 115 application with the local board voting four (4) to zero (0) to approve.

Commissioner Guthrie moved to uphold the local board's recommendation and approve the new permit. Vice Chairman Johnson seconded. The motion was unanimously approved.

RR42-27261 BRUCE EDWIN SELF II – Commissioner Guthrie noted this is a new type 209 application with the local board voting three (3) to zero (0) to approve.

Commissioner Guthrie moved to uphold the local board's recommendation and approve the new permit. Commissioner Sturtz seconded. The motion was unanimously approved.

DL49-27176 SPEEDWAY SUPERAMERICA, LLC – Commissioner Guthrie noted this is a new type 115 application with the local board voting three (3) to zero (0) to approve.

Commissioner Guthrie moved to uphold the local board's recommendation and approve the new permit. Vice Chairman Johnson seconded. The motion was unanimously approved.

DL68-27340 AINZEELA INVESTMENT, LLC – Commissioner Guthrie noted this is a new type 115 application with the local board voting four (4) to zero (0) to approve.

Commissioner Guthrie moved to uphold the local board's recommendation and approve the new permit. Commissioner Sturtz seconded. The motion was unanimously approved.

DL91-27307 FAMILY EXPRESS CORPORATION – Commissioner Guthrie noted this is a new type 115 application with the local board voting four (4) to zero (0) to approve.

Commissioner Guthrie moved to uphold the local board's recommendation and approve the new permit. Vice Chairman Johnson seconded. The motion was unanimously approved.

DL91-27306 FAMILY EXPRESS CORPORATION – Commissioner Guthrie noted this is a new type 115 application with the local board voting four (4) to zero (0) to approve.

Commissioner Guthrie moved to uphold the local board's recommendation and approve the new permit. Commissioner Sturtz seconded. The motion was unanimously approved.

DL80-27331 RICKER OIL COMPANY, INC. – Commissioner Guthrie noted this is a new type 115 application with the local board voting four (4) to zero (0) to disapprove.

Commissioner Guthrie stated the local board found there was a lack of desire and need in the community for these services.

Commissioner Guthrie moved to uphold the local board's recommendation and deny the new permit. Vice Chairman Johnson seconded. The motion was unanimously approved.

DL66-27311 FAMILY EXPRESS CORPORATION – Commissioner Guthrie noted this is a new type 115 application with the local board voting two (2) to one (1) to approve.

Commissioner Guthrie moved to uphold the local board's recommendation and approve the new permit. Commissioner Sturtz seconded. The motion was unanimously approved.

RR29-22144 SITEWORKS REALTY CORPORATION – Commissioner Guthrie noted this new application was recommended to be approved by the local board, pending location, in 2008, but the information was not brought before the Commission at that time. The Commission has still not received a location.

Commissioner Guthrie moved to uphold the local board's recommendation and approve the new permit to be placed in escrow, under the conditions that renewals to make the permit current must be filed and rules of escrow will be followed. Vice Chairman Johnson seconded. The motion was unanimously approved.

INACTIVE FILES

INACTIVE FILES- Vice Chairman Johnson moved to make forty-seven (47) permits inactive. Thirty-eight (38) permits are not subject to auction and nine (9) permits are subject to auction. Commissioner Sturtz seconded. The motion was unanimously approved.

OLD BUSINESS

MICHAEL'S UPTOWN CAFÉ, INC. – Commissioner Guthrie noted this application for an historic district permit was filed in January 2010. This type of permit requires the local legislative body, which in this case is the city of Bloomington, to provide approval for the permit to the Commission.

A hearing before the Commission was held a few months ago between the city of Bloomington and the applicant. The Commission has not acted on this application.

Commissioner Guthrie moved to require legislative approval for this application. Commissioner Sturtz seconded. The motion was unanimously approved.

NEW BUSINESS

FRANKFORT ADULT LEARNING CENTER – Commissioner Guthrie noted the Commission received information regarding an applicant who wishes to place an alcoholic beverage permit at a location that may be within 200 feet of a school. The Commission received a memorandum from the applicant explaining why this school is not a school and from the Community Schools of Frankfort explaining why this is a school.

Chairman Snow stated that he has read every word of the information provided and was very pleased at how well written and professional it was.

Commissioner Guthrie moved that the 200 foot rule applies to this application and, therefore, does not qualify. Commissioner Sturtz seconded.

The applicant requested to be heard by the Commission. Chairman Snow agreed to allow comments from the applicant.

A representative for the applicant restated what was in the memorandum regarding why this doesn't qualify as a school. And, the applicant, Frederick Lenehan, stated a neighbor, who owns a building next to the proposed location, said she would prevent the permit from being issued unless Mr. Lenehan bought her building, which he did not. He also stated a new three-way alcoholic beverage permit was just issued to a location that is closer to the school than his location. The Commission questioned Mr. Lenehan about the issuance of the new three-way permit. The business already had a two-way permit, so the location was grandfathered for the three-way permit.

Commissioner Guthrie restated his motion that the 200 foot rules applies to this application. Vice Chairman Johnson seconded. The motion was unanimously approved.

POLICY DETERMINATIONS

No Policy Determinations

ANNOUNCEMENTS

No Announcements

ADJOURNMENT

Commissioner Sturtz moved to adjourn the meeting. Commissioner Guthrie seconded. The motion was unanimously approved.

Approved this _____ day of _____, 2010.

P. TOM SNOW, CHAIRMAN

DAVID JOHNSON, VICE CHAIR

DALE STURTZ, COMMISSIONER

FRANK GUTHRIE, COMMISSIONER